


**MEMORANDUM**

TO: County Council

FROM:  Michael Faden, Senior Legislative Attorney  
Jeffrey L. Zyontz, Legislative Attorney

SUBJECT: **Introduction:** SRA 09-01, Adequate Public Facilities – Validity Period

SRA 09-01, Adequate Public Facilities – Validity Period, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on February 10, 2009. A public hearing is tentatively scheduled for March 17 at 1:30 p.m.

SRA 09-01 would extend the standard validity period for a determination of adequate public facilities under the subdivision regulations from 5 to 7 years. This amendment would also extend by 2 years the validity period of any preliminary subdivision plan approved since January 1, 2004.

This packet contains

SRA 09-01  
Resolution to set hearing date  
Memo from County Executive

Circle

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Ordinance No. \_\_\_\_\_  
Subdivision Regulation Amend. No. 09-01  
Concerning: Adequate Public Facilities-  
Validity Period \_\_\_\_\_  
Revised: 2-5-09 Draft No. 2  
Introduced: February 10, 2009  
Public Hearing: March 17, 2009  
Adopted: \_\_\_\_\_  
Effective: \_\_\_\_\_

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF THE  
MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Council President at the Request of the County Executive

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**AN AMENDMENT to:**

- (1) extend the validity period for a determination of adequate public facilities for certain developments; and
- (2) otherwise revise the validity period for certain developments.

By amending

Montgomery County Code  
Chapter 50, Subdivision of Land  
Section 50-20

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

**OPINION**

**ORDINANCE**

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following Ordinance:*

**Sec. 1. Section 50-20 is amended as follows:**

**50-20. Limits on issuance of building permits.**

\* \* \*

(c) (1) Words and phrases used in this subsection have the meanings indicated in Section 8-30.

(2) Except as provided in this subsection and Article IV of Chapter 8, the Department of Permitting Services may issue a building permit only if the Planning Board has made a timely determination of the adequacy of public facilities to serve the proposed development under this Chapter. However, the Department may issue a building permit for any proposed development that is:

(A) exclusively residential on a lot or parcel recorded before July 25, 1989, or otherwise recorded in conformance with a preliminary plan of subdivision approved before that date; or

(B) otherwise exempt from the requirement for determining adequacy of public facilities before a preliminary plan of subdivision is approved.

(3) A determination of adequate public facilities made under this Chapter is timely and remains valid:

(A) For 12 years after the preliminary plan is approved for any plan approved on or after July 25, 1989, but before October 19, 1999;

(B) For no less than [5] 7 and no more than 12 years after the preliminary plan is approved, as determined by the

27 Planning Board at the time of approval, for any plan  
28 approved on or after October 19, 1999, but before August  
29 1, 2007; and

30 (C) For no less than [5] 7 and no more than 10 years after the  
31 preliminary plan is approved, as determined by the Board  
32 at the time of approval, for any plan approved on or after  
33 August 1, 2007. If an applicant requests a validity period  
34 that is longer than [5] 7 years, the applicant must submit  
35 a development schedule or phasing plan for completion  
36 of the project to the Board for its approval. At a  
37 minimum, the proposed development schedule or phasing  
38 plan must show the minimum percentage of the project  
39 that the applicant expects to complete in the first [5] 7  
40 years after the preliminary plan is approved. To allow a  
41 validity period longer than [5] 7 years, the Board must  
42 find that the extended validity period would promote the  
43 public interest. The Board may condition a validity  
44 period longer than [5] 7 years on adherence to the  
45 proposed development schedule or phasing plan, and  
46 may impose other transportation improvement or  
47 mitigation conditions if those conditions are needed to  
48 assure adequate levels of transportation service during  
49 the validity period.

50 For any preliminary plan that was approved between January 1,  
51 2004 and (effective date), the validity period is extended 2  
52 years.

(4) The Planning Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development do not exceed:

(A) 2½ years for a subdivision with an original validity period of [5] 7 years; or

(B) 6 years for a subdivision with an original validity period longer than [5] 7 years.

\* \* \*

*Approved:*

\_\_\_\_\_  
Isiah Leggett, County Executive

\_\_\_\_\_  
Date

*This is a correct copy of Council action.*

\_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

\_\_\_\_\_  
Date

Resolution No:  
Introduced: February 10, 2009  
Adopted: February 10, 2009

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION  
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT  
WITHIN MONTGOMERY COUNTY, MARYLAND

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By: District Council

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Subject: **Notice of Public Hearing on Subdivision Regulation Amendment 09-01**

Background

1. §50-6A of the County Code requires that, within 30 days after any subdivision regulation amendment is introduced, the Council must by resolution set a date and time for public hearing on the proposed amendment.
2. Subdivision Regulation Amendment 09-01 was introduced on February 10, 2009.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

Legal notice must be given of the public hearing to be held on March 17, 2009, at 1:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, to give the public an opportunity to comment on SRA 09-01.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

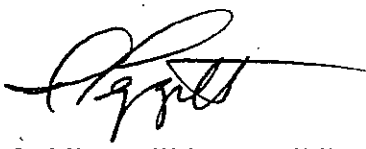
Isiah Leggett  
County Executive

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MEMORANDUM

February 02, 2009

TO: Phil Andrews, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Legislation – Adequate Public Facilities – Validity Period

I am attaching for the Council's consideration a subdivision regulation amendment (SRA) which would extend the validity period for a determination of Adequate Public Facilities (APF). I am also attaching a Legislative Request Report and a Fiscal Impact Statement for the proposed SRA.

This SRA is one of four legislative proposals which I am submitting to the Council today to implement the 11-point economic plan which I announced in December 2008. Each legislative proposal is designed to ease some of the difficulties experienced by local businesses as a result of the national economic downturn. Developers and builders started experiencing a tightening of the credit markets 6-12 months ago, which made it difficult to obtain financing and caused a far reaching slow down in development. Some projects that provided infrastructure improvements before a full build-out are at a standstill because of the economy. To obtain an APF extension under current law a developer or builder must generally show that a certain percentage of the project has been completed and may have to build or pay for costly infrastructure or pay for a new traffic study. This SRA allows developers and builders to avoid these extra steps and costs as the economy and lending market recover.

My 11-point economic plan included a proposal to provide an economic impact analysis for all legislative and regulatory changes which would analyze the impact of the proposed change on local businesses. We are in the process of completing an economic impact analysis for this SRA and will forward it to Council in the near future. I look forward to working with the Council as it considers this SRA and my other three legislative proposals which provide opportunities for some measure of relief to our business community and residents.

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